

The 24th July, 1986

No. 9/6/86-6Lab./5403.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of The General Manager, Haryana Roadways, Jind.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 143 of 1984

(Old No. 2 of 1984)

SHRI BALBIR SINGH WORKMAN AND THE MANAGEMENT OF THE
GENERAL MANAGER, HARYANA ROADWAYS, JIND

Present:—

Shri Tejinder Singh for workman.

Shri Radhey Sham ADA for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Balbir Singh workman and G. M. Haryana Roadways, Jind, originally to Labour Court, Rohtak. In terms of the reference are as under :—

“Whether termination of services of Shri Balbir Singh, workman, is according to law and correct, if not, to what relief is he entitled ?”

On creation of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Workman through his statement of claim alleged that he has been in the service of respondent-management as a Driver since 1970. His work and conduct was satisfactory. His services were terminated on 10th June, 1980 on the allegations that he drove bus, so rash or negligently that he caused death of one Motor Cyclist. M. A. C. T. Tribunal,—vide judgement dated 8th March, 1977 hold him guilty. On the basis of the same he was terminated no proper and fair domestic enquiry was conducted against him. He alleged that the judgement of M.A.C.T. Tribunal Jind is not according to law and his termination is illegal. So he prayed that he be reinstated with continuity in service and with full back wages.

Respondent-management filed written statement through which it contended that services of workman were terminated after a fair and proper enquiry in which opportunity to cross-examination and leading defence evidence was provided to workman but the workman did not join the enquiry proceedings nor he availed of the above opportunities intentionally. So it was prayed that on the basis of enquiry as well as on account of decision of M. A. C. T. Tribunal Jind. Services of workman were correctly terminated because he caused loss of Rs 30,000 to the respondent-management by means of his rash or negligent. Act.

Workman filed replication through which he controverted the allegations of respondent-management and re-asserted his own claim.

On the pleadings of the parties the following issues were framed for the just decision of this Industrial Disputes between the parties.

Issues :—

- (1) Whether a valid and proper enquiry was held by the respondent, if not, to what effect ? OPM.
- (2) As per reference ?

I have heard Shri Tejinder Singh A.R. of the workman and Shri Radhey Sham, ADA for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :

Issue No. 1

Before switching on discussions on merits it would be appropriate to mention here that on 1st January, 1974 Driver Shri Balbir Singh drove bus No. HRJ 949 so resly or negligently by means of that he caused death of one Motor Cycle. A case under section 279 and 304-A. IPC was registered

against him in which workman was acquitted for want of insufficient evidence while in a M.A.C.T. case workman Balbir Singh was found guilty by Shri K. L. Wasan, M.A.C.T. Tribunal, Jind and compensation of Rs. 30,000 was awarded to the kith and kin of deceased person. Before the conclusion and judgement of M.A.C.T. case domestic enquiry was also ordered against Balbir Singh, workman by G.M. Haryana Roadways, Jind and Shri A. R. Goyal, Law Officer was appointed as Inquiry Officer against workman who issued notice Ex. M-6 which was received by workman on 28th May, 1979 receipt of this letter was admitted by Shri Balbir Singh, workman when he appeared in the witness box as AW-1. In spite of service of workman he did not join enquiry proceedings, so Shri A. R. Goyal proceeded *ex parte* against workman. Shri Balbir Singh, workman has been appearing in the M. A. C. T. case which was conducted by Shri A. R. Goyal on behalf of respondent-management and also by Shri Gulab Singh, District Attorney, Jind. This fact finds support from statement of Shri A. R. Goyal, MW-2. That show-cause notice was issued to workman. Charge-sheet was despatched to him. Statements of witnesses were despatched to him. Enquiry report was also sent to him. Second show-cause notice was also despatched to him by post and opportunity for availing personal hearing was also afforded to him but workman knowingly did not participate in the enquiry proceedings nor he availed of right of cross-examination leading defence evidence and of personal hearing. This conduct of workman shows that he himself waived of his legitimate rights during the enquiry proceedings. Shri A. R. Goyal in his statement also stated that before submitting his enquiry report he also considered judgement of M.A.C.T. Tribunal, Jind.

The main ground of attack from the side of the workman on the orders of termination passed by G. M., Haryana Roadways, Jind is that first of all workman was acquitted by the trial court in the case under section 279-304-A IPC and in written statement the department took a stand that workman was not at fault in the alleged accident.

From the bare reading of judgement passed by Shri K. K. Dodha it revealed that the accused was acquitted on the ground of insufficient and cogent evidence. Shri A. R. Goyal stated that written statement was filed as per the instructions of workman Shri Balbir Singh. So both these defences taken by Shri Balbir Singh are very weak, did not help him and have got no relevancy with the fair and proper domestic enquiry.

The judgement passed by M. A. C. T. Tribunal, Jind is by superior court in which Shri Balbir Singh was held guilty and was burdened with payment of Rs. 30,000 to the relation of deceased. Against this judgement neither workman nor the respondent-management went in appeal. It was finally accepted by the respondent-management as well as by the workman. At this stage when the judgement of M. A. C. T. Tribunal is against the workman, it does not lie in the mouth of workman to claim himself as an innocent.

Moreover the workman's conduct is most surprising, he had been most indifferent towards the domestic enquiry proceedings by non-joining it, in spite of the fact that he had full knowledge about the domestic enquiry proceedings because first of all he was served,—*vide* Ex.M-6. Secondly, Shri A.R. Goyal, Law Officer who used to conduct M.A.C.T. case in M.A.C.T. Tribunal court told Balbir Singh about the domestic enquiry proceedings. So voluntarily non-joining enquiry proceedings shows the most indifferent and undesirable attitude of the workman towards enquiry proceedings. So I hold that enquiry proceedings were conducted in most proper and fair manner and finding given against the workman was accepted by G. M., Haryana Roadways who after properly going through the matter correctly passed termination order regarding termination of service of workman Balbir Singh. Accordingly, this issue is decided in favour of respondent-management against the workman.

Issue No. 2—

On the basis of my findings on issue No. 1, I hold that enquiry is fair and proper, so termination of workman by G.M., Haryana Roadways, Jind is justified and correct. So this issue is also decided in favour of respondent-management against the workman.

I pass award regarding the dispute between Balbir Singh and G. M., Haryana Roadways, in hand accordingly.

Dated the 14th May, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1373, dated 19th May, 1986.

Forwarded (four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.